

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

VERONICA J. AGUIRRE, an individual, and )  
FERNANDO CHAVEZ, an individual, )

Plaintiffs,

v.

WELLS FARGO BANK, N.A., et al., )

Defendants. )

3:11-cv-656-RCJ-VPC

**ORDER**

Currently before the Court are two motions to dismiss (##7, 33) for failure to state a claim and a motion to remand (#15). For the following reasons, the Court grants the motions to dismiss (##7, 33) and denies the motion to remand (#15) as moot.

**BACKGROUND**

Plaintiffs Veronica Aguirre and Fernando Chavez (collectively "Plaintiffs"), wife and husband, originally filed their complaint in Nevada state court on September 1, 2011 against Wells Fargo, Universal American Mortgage Company of California, Mortgage Electronic Registration System ("MERS"), Ticor Title of Nevada, LSI Title Company, and MTC Financial dba Trustee Corps ("Trustee Corps") for their involvement in foreclosure actions relating to 8275 Opal Station Drive, Reno, Nevada. (Compl. (#1-1) at 1-2). On September 12, 2011, the dispute was removed to this Court by LSI and Trustee Corps. (Pet. for Removal (#1) at 3).

Defendants LSI and Trustee Corps filed a motion to dismiss the complaint for failure to state a claim on September 28, 2011. (Mot. to Dismiss (#7)). Plaintiffs filed a motion to remand the case to state court on October 12, 2011. (Mot. to Remand (#15)). Defendants MERS and Wells Fargo filed a motion to dismiss the complaint for failure to state a claim on

1 January 6, 2012. (Mot. to Dismiss (#33)).

2 Plaintiffs then filed an amended complaint in this Court on January 27, 2012, which  
3 adds Stewart Title Company and ReconTrust Company as defendants. (Am. Compl. (#36)  
4 at 1). LSI and Trustee Corps along with MERS and Wells Fargo then supplemented their  
5 motions to dismiss as needed and requested that this Court dismiss the amended complaint  
6 pursuant to their earlier filed motions to dismiss. (Supplemental Motion (#38); Mins. of  
7 Proceedings (#44)). A hearing was held on March 19, 2012 at which Plaintiffs were granted  
8 a continuance until April 2, 2012 to respond to the motions to dismiss the amended complaint  
9 and to decide whether to continue to prosecute the action. (Mins. of Proceedings (#43)).  
10 Plaintiffs failed to respond to the motions to dismiss and did not appear at the April 2, 2012  
11 hearing. (Mins. of Proceedings (#44)).

#### 12 DISCUSSION

13 Under Nevada Local Rule 7-2(d), "[t]he failure of an opposing party to file points and  
14 authorities in response to any motion shall constitute a consent to the granting of the motion."  
15 The "[f]ailure to follow a district court's local rules is a proper ground for dismissal." *Ghazali*  
16 *v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

17 Plaintiffs here failed to appear at the April 2, 2012 hearing and did not respond to  
18 Defendants' motions to dismiss the amended complaint. Under Nevada Local Rule 7-2(d)  
19 Plaintiffs are therefore deemed to consent to the granting of the motions to dismiss.  
20 Accordingly, the Court dismisses the complaint against all Defendants with prejudice.

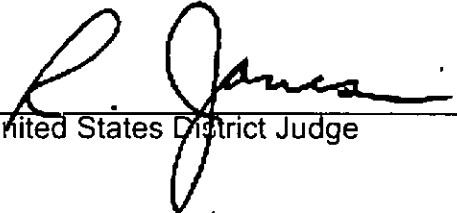
21 Because the Court dismisses the amended complaint, Plaintiffs' motion to remand is  
22 denied as moot.

#### 23 CONCLUSION

24 For the foregoing reasons, IT IS ORDERED that the motions to dismiss (##7, 33) are  
25 GRANTED and the amended complaint is hereby dismissed in its entirety against all  
26 Defendants with prejudice.

27 IT IS FURTHER ORDERED that Plaintiffs' motion to remand (#15) is denied as moot.  
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1 DATED: This 11th day of May, 2012.

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4 United States District Judge  
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